

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 057

June 27, 1958

REFUND CLAIMS: SUFFICIENCY

Syllabus:

Refund claims are sufficient where they are of such character and are supported by detail adequate to apprise the Franchise Tax Board of the basis of the claims. Where the refund claims are for the refund of a specified amount with the added words "or such greater amount as is legally refundable plus interest" the claim is not limited to the sum certain mentioned in the claim.

B Company filed refund claims on the grounds that certain dividend income should not have been treated as California income because the taxpayer's commercial domicile had been determined to be in another state. In reviewing the claims, it was noted that because of the fact that the commercial domicile was not within the state other intangible income in the form of interest on government bonds should also be treated as non-California income. The claims were for the refund of a specified amount with the added words "or such greater amount as is legally refundable plus interest". The statute of limitations has run since the claim was filed. Advice is requested as to whether the claims are sufficiently broad to cover the bond interest which was not specifically mentioned in the claims.

Claims are sufficient where they are of such character and are fortified by detail adequate to apprise the Franchise Tax Board of the basis of the claims, without being misleading. Taxpayer's claims advise that its commercial domicile is located in another state and the Franchise Tax Board was thereby apprised that income from intangibles which do not have a taxable situs in California should not be treated as California income. The taxpayer has since substantiated the fact that the bonds did not have a taxable situs in California. While the taxpayer specifically claimed an adjustment as to intangible dividend income, the basis of its claim was the commercial domicile theory. It is reasonable to say that an adjustment with respect to any income from intangibles may properly be considered within the commercial domicile theory of the taxpayer's claim.

Where the overpayment is proved by the taxpayer and the claim sets forth a sum certain followed by the words "or such greater amount as is legally refundable" the taxpayer may recover the amount of overpayment proved by him to have been made irrespective of the amount set forth in the claim.